



DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-904

Certain Activated Carbon from the People's Republic of China: Notice of Court Decision Not in Harmony with the Results of Antidumping Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On October 22, 2021, the Court of International Trade (CIT) issued its final judgment in *Carbon Activated Tianjin Co., Ltd. and Carbon Activated Corporation, et al. v. United States*, Consol. Court No. 20-00007, sustaining the Department of Commerce (Commerce)'s remand results pertaining to the eleventh administrative review of the antidumping duty (AD) order on certain activated carbon from the People's Republic of China (China) covering the period of April 1, 2017, through March 31, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Carbon Activated Tianjin Co., Ltd. (Carbon Activated), Datong Juqiang Activated Carbon Co., Ltd. (Datong Juqiang) (collectively, the mandatory respondents), Beijing Pacific Activated Carbon Products Co., Ltd. (Beijing Pacific), Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. (GHC), Ningxia Mineral & Chemical Limited (Ningxia Mineral), and Shanxi Sincere Industrial Co., Ltd. (Shanxi Sincere).

DATES: Applicable November 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jinny Ahn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0339.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 2019, Commerce published its *Final Results* in the 2017-2018 AD administrative review of certain activated carbon from China.¹ Commerce calculated a weighted-average dumping margin of 0.86 U.S. dollars (USD)/kg for Datong Juqiang and a weighted-average dumping margin of 1.02 USD/kg for Carbon Activated, and assigned Beijing Pacific, GHC, Ningxia Mineral, and Shanxi Sincere a separate rate of 0.89 USD/kg.²

The mandatory respondents, as well as Beijing Pacific, GHC, Ningxia Mineral, and Shanxi Sincere (collectively, the respondents), appealed Commerce's *Final Results*. On April 2, 2021, the CIT remanded the *Final Results*, and directed Commerce to reconsider Commerce's selection of Malaysia as the primary surrogate country, Commerce's selection of surrogate data to value bituminous coal, and Commerce's adjustments to the surrogate financial ratios.³

In its remand redetermination, issued in July 2021, Commerce: (1) reconsidered and further explained its determination to use Malaysia as the primary surrogate country; (2) reconsidered its choice of HS code for the bituminous coal SV used in the production of activated carbon; and (3) reconsidered and further explained its allocation of certain line items in valuing financial ratios using the 2017 financial statements from the Romanian company, Romcarbon SA (Romcarbon).⁴ Specifically, Commerce changed the surrogate value used to value bituminous coal from the average unit value of imports reported under Romanian HS 2701.12 to the average unit value of imports reported under Malaysian HS 2701.19 for most of the bituminous coal input used in the production of the subject merchandise during the period of review. In addition, Commerce made necessary changes with respect to the allocation of certain line items in calculating the financial ratios using the 2017 financial statements from Romcarbon.

¹ See *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 68881 (December 17, 2019) (*Final Results*).

² *Id.*

³ See *Carbon Activated Tianjin Co., Ltd. and Carbon Activated Corporation, et al. v. United States*, 503 F. Supp. 3d 1278 (CIT 2021).

⁴ See *Final Results of Redetermination Pursuant to Court Remand, Carbon Activated Tianjin Co., Ltd. and Carbon Activated Corporation, et al. v. United States*, Court No. 20-00007, Slip Op. 21-35, dated July 1, 2021, available at <https://enforcement.trade.gov/remands/21-35.pdf>.

Accordingly, Commerce made changes to the margin calculations for the mandatory respondents and revised the separate rate for Beijing Pacific, GHC, Ningxia Mineral, and Shanxi Sincere.⁵ On October 22, 2021, the CIT sustained Commerce’s final redetermination.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(a) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s October 22, 2021 judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirement of *Timken*.

Amended Final Results

Because there is now a final court decision, Commerce amends the *Final Results* with respect to the respondents as follows:

Exporters	Weighted-average dumping margin (USD/kg)⁹
Carbon Activated Tianjin Co., Ltd.	0.94
Datong Juqiang Activated Carbon Co., Ltd.	0.55
Beijing Pacific Activated Carbon Products Co., Ltd.	0.61
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.	0.61
Ningxia Mineral & Chemical Limited	0.61
Shanxi Sincere Industrial Co., Ltd.	0.61

⁵ *Id.* at 1-2, 40-41.

⁶ See *Carbon Activated Tianjin Co., Ltd. and Carbon Activated Corporation, et al. v. United States*, Court No. 20-00007, Slip Op. 21-149 (CIT October 22, 2021).

⁷ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁸ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

⁹ In the second administrative review of the AD order on certain activated carbon from China, Commerce determined that it would calculate per-unit assessment and cash deposit rates for all future reviews of this order. See *Certain Activated Carbon from the People’s Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 75 FR 70208, 70211 (November 17, 2010); see also *Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 61172 (October 9, 2015) at 61174 n.21.

Cash Deposit Requirements

Because the mandatory respondents, Beijing Pacific, Ningxia Mineral, and Shanxi Sincere have superseding cash deposit rates (*i.e.*, there have been final results published in a subsequent administrative review), we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP) for these companies. Accordingly, this notice will not affect the current cash deposit rate for these companies. For GHC, because it does not have a superseding cash deposit rate, Commerce will issue revised cash deposit instructions to CBP. Additionally, with respect to GHC, Commerce will instruct CBP to refund the difference between the amount of cash deposits paid as a result of the application of the *Final Results* and the amount due as a result of the application of these amended final results.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were exported by Carbon Activated, Datong Juqiang, Beijing Pacific, GHC, Ningxia Mineral, and Shanxi Sincere, and were entered, or withdrawn from warehouse, for consumption during the period April 1, 2017, through March 31, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by Carbon Activated, Datong Juqiang, Beijing Pacific, GHC, Ningxia Mineral, and Shanxi Sincere in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is not zero or *de minimis*. Where an import-specific assessment rate is zero or *de minimis*,¹⁰ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

¹⁰ See 19 CFR 351.106(c)(2).

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: October 26, 2021.

Ryan Majerus
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

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